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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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09/741,219

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Adam Bosworth

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EXAMINER

VU, TUAN A

ART UNIT

PAPER NUMBER

2193

MAIL DATE

DELIVERY MODE

09/17/2009

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Advisory Action Before the Filing of an Appeal Brief	Application No. 09/741,219	Applicant(s) BOSWORTH ET AL.	
	Examiner TUAN A. VU	Art Unit 2193	

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 31 August 2009 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☐ The period for reply expires _____ months from the mailing date of the final rejection.
 b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
 (a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
 (b) ☐ They raise the issue of new matter (see NOTE below);
 (c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
 (d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
 5. ☐ Applicant's reply has overcome the following rejection(s): _____.
 6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
 7. ☒ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
 The status of the claim(s) is (or will be) as follows:
 Claim(s) allowed: _____.
 Claim(s) objected to: _____.
 Claim(s) rejected: 1-21, 25.
 Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
 9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
 10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:
See Continuation Sheet.
 12. ☐ Note the attached Information *Disclosure Statement*(s). (PTO/SB/08) Paper No(s). _____
 13. ☐ Other: _____.

/Tuan A Vu/
 Examiner, Art Unit 2193

Continuation of 11. does NOT place the application in condition for allowance because: Applicants have submitted that no proper citations against the very language of the claim has been provided and that no Examiner's reasoning (w/ clear articulation) was provided as to show why W3C and 'template match' would fulfill the steps of analyzing, generating, describing execution order, documenting the flow as required by the claim. The claim language about unnested first and second cell (emphasis added) with order of processing requiring a formula to be evaluated has been addressed, matched, rebutted and counter-rebutted at length throughout the history of the prosecution wherein the mere teaching of unnested XSLT cells (as exemplified in very specific pages) of the Specifications (emphasis added) with order of processing dictated by a formula within one such cell has been understood as representing the phraseology of the claim. W3C as cited represents the dependency of cell processing in the same unnested nature, with formula via use of the XSLT concept. The receiving and analyzing of XSLT are deemed necessary part of processing context by which cells are parsed to determine actions to be done to retrieve result from one formula (e.g. value of select) in order to fulfill the content of another cell, hence are integral to this methodology. The case has been repeatedly based on one same feature and one same interpretation has repeatedly applied via use of XSLT either in Renner or in W3C. One of ordinary skill in the art by reading the Specifications regarding a formula like value-of-select as illustrated in the Disclosure would easily see a perfect match with the 'value-of-select' formula in the references being applied; i.e. no undue articulation needed in the body of the rejection would be required. Prior art rejection demands on skill in the art to be able to see the technological analogy between language being interpreted and the reference in a context of someone (e.g. the inventor or implicated practitioner) that has a basic understanding of what the technology is all about. Basic knowledge in light of the XSLT examples (with 'value-of-select' cell specification) in the very disclosure would not require the W3C same specification to be extensively explained. That is, the combination of "level of skill in the art" as key prong for claim interpretation (in light of the Specs) and application of prior art should not be ignored. The rest of the argument appear to allegation that none of the steps recited in the claim has been matched with a slightest analogous feature in the reference, and asserting that 'template match' has nothing to do with the claimed features as they are interrelated in the claim fall into a global denial of one simple fact: The claim language as interpreted only amounts to and has been (AT BEST) given weight to the extent of the Disclosure, as this is understood in light of the state of the arts at the time the invention was made. Hence, in the scenario where the inter-relationship of the elements contained in the phraseology of the claim is constrained to the very teaching of the Disclosure, this teaching has been deemed analogous to W3C because "one of ordinary skill in the art" (emphasis added) familiar with this style sheet templated language of XSLT would be able to see the parallel between what is disclosed and what W3C cell organization (order of processing flow) is all about. The rejection has clearly indicated that determining of execution flow amounts to analysis process based on parsing of tree dependency, while "documenting" as recited in the claim has been given no particular weight in view of a lack of enablement (see precedence of record, i.e. USC 112 1st para) regarding which no clear remedying from the Applicants had been able to overcome. In all, the arguments are not exactly fulfilling a CFR 1.111b requirement which requires proper explanation for each element of the claim in terms how it would clearly distinguish over a cited portion of W3C or Renner. Overall, the claimed elements and interrelationship among first cell and second cell are construed as same as the cells taught in the templated language coming from XSLT, which is exactly what the specific pages (see pg. 6-7) of the Disclosure is all about. It is recommended that those very pages should clearly be evidence that the rejection will be maintained, and should the applicant maintain any disagreement, the case as disclosed (and claimed) should be directed towards the taking next proper course of this elongated prosecution.